

**OFFICE OF THE ATTORNEY GENERAL  
COURT DIVERSION  
FISCAL YEAR 2015**

**DEPT MISSION**

The mission of Vermont court diversion programs is to engage community members in responding to the needs of crime victims, the community, and those who violated the law, holding the latter accountable in a manner that promotes responsible behavior.

Court Diversion is a locally governed community justice program begun in the 1970's to divert minor offenders out of the court system to community-based programs staffed largely by volunteers. Diversion also operates two other programs: one for civil violations of underage possession of alcohol and marijuana, and one designed to help people regain their driver's license while they pay fines and fees owed to the State. Diversion's alternatives to the formal court processes have multiple goals:

- Use citizen involvement and a restorative justice approach
- Repair harm to victims
- Restore to the community any loss it sustained
- Redirect offenders in a more productive direction
- Reduce recidivism
- Reduce the workload on Vermont courts

**DEPARTMENT/PROGRAM DESCRIPTION**

Court Diversion operates cost-effective programs that hold offenders accountable, help offenders to repair the harm caused to victims and the larger community, and work to prevent future unlawful behavior. This restorative justice approach is a valuable investment that reduces the workload and cost of the Courts, State's Attorneys, and Department of Corrections.

In FY 2013, 1,962 individuals were referred to Court Diversion and 2,819 youth to the Teen Alcohol Safety Program. Last fiscal year 80 percent of the adults and youth completed their Diversion contracts successfully. Clients paid over \$116,000 in restitution and charitable donations during the past year. Staffed by 30 full-time staff equivalents and 400 volunteers, programs provided these services at a cost of approximately \$255 per case in General Fund dollars. 92% of the GF appropriation is awarded as grants to the private non-profit agencies that run Court Diversion in each county.

Through **Court Diversion**, offenders have the opportunity to accept responsibility for their actions, to repair the harm done, and to avoid a criminal record. The State's Attorney refers individuals to the county program. The majority of diversion clients are first-time offenders charged with misdemeanors, although felony charges are also referred. Following a restorative justice approach, community members meet with clients to develop contracts that address the offense and the underlying reasons for the client's actions. Victims are invited to voice their

opinion, and clients through their contracts may agree to pay restitution, participate in counseling or substance abuse treatment, write letters of apology, etc. Participation in the program is voluntary and upon successful completion of the program, the State's Attorney dismisses the case. If an offender does not complete the terms of the contract, the case is returned for prosecution.

At the start of FY 2011, the statutory purpose of adult Court Diversion was expanded to include second-time misdemeanants. During FY 2012, approximately 14% of people referred to Diversion had previously been involved in the criminal justice system. Of all misdemeanor cases disposed by the Superior Court's Criminal Division in FY 2013, approximately 10% were as a result of successful completion of Diversion, up from 8% each of the previous two years.

In addition, Court Diversion programs run the **Youth Substance Abuse Safety Program**. Last year's act that decriminalized possession of small amounts of marijuana renamed the Teen Alcohol Safety Program to Youth Substance Abuse Safety Program (YSASP), and expanded the program to include civil violations of marijuana possession. Youth age 16-20 caught with alcohol or marijuana (an ounce or less) are referred by law enforcement to YSASP. Youth pay a fee, participate in a substance abuse screening or assessment, follow the recommendations of the counselor, and may participate in an educational program and perform community service. If an individual fails to complete the contract, the ticket is sent to the Vermont Judicial Bureau, which levies a fine, and the individual's driver's license is suspended.

The **Civil DLS Diversion Program**, fully operational July, 2013, helps individuals whose driver's license remains suspended only because of fines and fees owed to the State obtain a valid license while paying off that debt. Diversion staff gather information from the Vermont Judicial Bureau (VJB) and Department of Motor Vehicles to determine license reinstatement requirements, help participants create a workable payment plan, and submit a Motion and contract to the VJB. After the VJB hearing officer approves the contract, the Bureau informs DMV that the person is eligible to have his or her license reinstated. Diversion collect payments, send them to the VJB and otherwise monitors the contract.

The Vermont Association of Court Diversion Programs is made up of the 14 court diversion programs designated by the Attorney General as the diversion agency serving a particular county. Each program is housed in a non-profit agency governed by a community board of directors.

## **KEY BUDGET ISSUES**

The development of new programs, changes in case load, and tightening of local funding all combine to challenge Diversion programs both fiscally and programmatically.

No state funding was appropriated for the DLS program; however, the program has created a significant increase in staff workload. While participants pay a fee (typically about \$150), many contracts will remain open for two or three years, and the fee will not cover associated costs. In addition, staff work with many individuals who do not end up enrolling in the program, and so do not pay any fee. Diversion directors see great value in the program for Vermonters but are concerned about the sustainability of providing these services.

In addition the law that decriminalized possession of small amounts of marijuana created various changes that affect Diversion; however, it is too soon to be able to quantify its impact. One change may lead to an increase in caseload; another, a reduction in caseload. Diversion referrals for *criminal* possession of marijuana will decrease as most of these are now civil violations; however, offsetting this decrease is the anticipated increase in referral of youth under age 21 to Diversion's Youth Substance Abuse Safety Program. It is likely that these underage civil tickets will outnumber the reduction in referrals from criminal court for two reasons: it is easier for an officer to issue a civil ticket than prepare a criminal charge affidavit and the burden of proof is lower. In addition, the new law encourages state's attorneys to refer adults charged with possessing between one and two ounces of marijuana to Diversion. However, the cumulative impact of these changes will not be known for some time. In addition, Act 76 allocated 50% of the fine revenue from adult civil marijuana violations to Diversion; the amount of that revenue is not yet known.

Another pressure for Diversion stems from legislators' desire for greater consistency in how civil violations are handled. To address that goal, we are developing a statewide protocol for the Youth Substance Abuse Safety Program. This new protocol, which we are designing with the assistance of an adolescent treatment expert recommended by the Health Department, will require changes in some counties and additional training and support during its adoption.

It is also worth noting that Diversion is no longer an alternative limited to first-time offenders. In the past few years, as pressures grew to reduce the workload of the Courts and the Department of Corrections, prosecutors have referred to Diversion repeat offenders with far greater frequency. Approximately 14% of referrals to Court Diversion in FY 2013 were of people with "prior involvement in the criminal justice system" - they had either participated in Diversion previously or have a criminal record. These more challenging cases require additional case manager supervision and support, and the successful completion rate for this group is lower than that for first-time participants.

The past few years have been one of change and growth for Diversion programs, and staff are both energized and challenged by these changes.

Finally, 93% of the Court Diversion GF appropriation is awarded to the private non-profit agencies that run Court Diversion in each county. In addition to these General Funds, programs rely on client fees, which provide approximately 25% of program revenues. However, many participants struggle to pay the fee, and programs do reduce the fee in cases of financial hardship.

#### *Special Fund: Court Diversion Fees*

The Court Diversion Special Fund records fees from clients that are used to support the program. Each Court Diversion program reports quarterly to the Attorney General's Office the amount of fees collected and spent. As of July 2010, programs no longer submit fee revenue for deposit in the Court Diversion Special Fund, according to 3 VSA §166. A uniform statewide fee schedule was adopted in January 2009. Programs may reduce or waive fees to account for participants' financial situation.

## GOALS/OBJECTIVES/PERFORMANCE MEASURES

Court Diversion, as part of the State's performance measure pilot, has established the following objective and performance measures.

**Objective:** to hold low-level offenders diverted from traditional court proceedings accountable for the harm caused to others and themselves in order to reduce recidivism.

Measures	FY 13 Target
% of Court Diversion (criminal & family division) cases closed successfully	80%
% of victims receiving full restitution after successful closure	95%
% of Youth Substance Abuse Safety Program cases closed successfully	75%

In future years, Diversion will expand these measures to include, at a minimum, recidivism rates of all Court Diversion participants. Currently, there is only information on recidivism of successful participants from FY 2007-2009. That study of over 3,800 adults and youth referred from Criminal Division found a statewide recidivism rate of 16%. Recidivism was defined as having a subsequent charge -- not conviction -- within two years of the date of successful completion of Court Diversion. In other words, 84% of *successful* Diversion participants were not subsequently *charged* with committing a crime up to two years after they completed Diversion.

The Vermont Center for Justice Research will document recidivism rates of all Diversion participants from FY 2010 and FY 2011 during the coming year.

### Program Reviews

A major focus of the Vermont Association of Court Diversion Programs (VACDP) is to create uniform practices and provide training and support to ensure programs continue to improve the quality of services provided. Each program participates in a peer review every three years. Following the peer review, a program develops a plan to implement improvements, and the Court Diversion Director, of the Attorney General's Office, monitors that implementation plan.



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## ***Court Diversion – Budget Overview FY 2015***

**[www.vtcourtdiversion.org](http://www.vtcourtdiversion.org)**

Court Diversion includes three programs that provide a cost-effective alternative to the formal court process using principles of restorative justice for approximately 5,000 individuals each year.

- Offenders together with those directly harmed and with community members decide how to repair the harm caused to victims and the larger community, and how to address factors that led to their breaking the law.
- 14 county programs are run by non-profit agencies under grant agreements with the Attorney General's Office. All are members of the Vermont Association of Court Diversion Programs (VACDP).
- Cost per case is approximately \$255 GF.
- Participant fees account for approximately one-quarter of programs' revenues.
- Diversion reduces the workload and cost of the Courts, State's Attorneys, and the Department of Corrections

### **Court Diversion**

- Restorative justice program for adults and youth charged with a crime or delinquency
- FY 2013 — close to 2,000 individuals referred by state's attorneys
- FY 2013 — 10% of misdemeanor cases resolved through Criminal Division were closed after successful completion of Diversion (previous two years, 8%)
- 14% of people referred had prior involvement in the criminal justice system

### **Youth Substance Abuse Safety Program**

- Voluntary program for youth aged 16 to 20 who violate Vermont's underage possession and consumption of alcohol and marijuana laws
- FY 2013 — approximately 2,900 youth referred by law enforcement
- As of July 1, 2013, 290 youth referred for possession of an ounce or less of marijuana

### **Driving with License Suspended Program**

- Fully operational July 1, 2013; since then approximately 140 individuals have regained their licensed and continue to pay off their debt.

### **KEY BUDGET ISSUES**

- Complexity of caseload and participants' ability to pay fees
- Sustainability of DLS program
- Impact of marijuana decriminalization
- Statewide program consistency

### **PERFORMANCE MEASURES – see Vantage document**

Report ID: VTPB-11-BUDRLLUP  
 Run Date: 12/19/2013  
 Run Time: 03:11 PM

**State of Vermont**  
**FY2015 Governor's Recommended Budget: Rollup Report**

Organization: 2100002000 - Vermont court diversion

**Budget Object Group: 1. PERSONAL SERVICES**

Budget Object Rollup Name	FY2013 Actuals				Difference Between Recommend and As Passed	Percent Change Recommend and As Passed
Contracted and 3rd Party Service	15,086	0	0	0	0	0.0%
<b>Budget Object Group Total: 1. PERSONAL SERVICES</b>	<b>15,086</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0%</b>

**Budget Object Group: 2. OPERATING**

Budget Object Rollup Name	FY2013 Actuals				Difference Between Recommend and As Passed	Percent Change Recommend and As Passed
Travel	283	0	0	0	0	0.0%
Other Purchased Services	35	0	0	0	0	0.0%
<b>Budget Object Group Total: 2. OPERATING</b>	<b>318</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0%</b>

**Budget Object Group: 3. GRANTS**

Budget Object Rollup Name	FY2013 Actuals	FY2014 Original As Passed Budget	FY2014 Governor's BAA Recommended Budget	FY2015 Governor's Recommended Budget	Difference Between FY2015 Governor's Recommend and FY2014 As Passed	Percent Change FY2015 Governor's Recommend and FY2014 As Passed
Grants Rollup	1,776,474	1,916,483	1,916,483	1,916,483	0	0.0%
<b>Budget Object Group Total: 3. GRANTS</b>	<b>1,776,474</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>0</b>	<b>0.0%</b>
<b>Total Expenses</b>	<b>1,791,878</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>0</b>	<b>0.0%</b>

Report ID: VTPB-11-BUDRLLUP  
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 Run Time: 03:11 PM

**State of Vermont**  
**FY2015 Governor's Recommended Budget: Rollup Report**

Organization: 2100002000 - Vermont court diversion

Fund Name	FY2013 Actuals	FY2014 Original As Passed Budget	FY2014 Governor's BAA Recommended Budget	FY2015 Governor's Recommended Budget	Difference Between FY2015 Governor's Recommend and FY2014 As Passed	Percent Change FY2015 Governor's Recommend and FY2014 As Passed
General Funds	1,155,018	1,396,486	1,396,486	1,396,486	0	0.0%
Special Fund	636,860	519,997	519,997	519,997	0	0.0%
<b>Funds Total</b>	<b>1,791,878</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>0</b>	<b>0.0%</b>

Position Count						
FTE Total						

Report ID: VTPB-07  
 Run Date: 12/19/2013  
 Run Time: 03:06 PM

**State of Vermont**  
**FY2015 Governor's Recommended Budget: Detail Report**

Organization: 2100002000 - Vermont court diversion

**Budget Object Group: 1. PERSONAL SERVICES**

Contracted and 3rd Party Service		FY2013 Actuals				Difference Between Recommend and As Passed	Percent Change Recommend and As Passed
Description	Code						
Contr & 3Rd Party - Financial	507100	12,300	0	0	0	0	0.0%
Contr&3Rd Pty-Educ & Training	507350	2,786	0	0	0	0	0.0%
<b>Total: Contracted and 3rd Party Service</b>		<b>15,086</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0%</b>
<b>Total: 1. PERSONAL SERVICES</b>		<b>15,086</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0%</b>

**Budget Object Group: 2. OPERATING**

Other Purchased Services		FY2013 Actuals				Difference Between Recommend and As Passed	Percent Change Recommend and As Passed
Description	Code						
Registration For Meetings&Conf	517100	35	0	0	0	0	0.0%
<b>Total: Other Purchased Services</b>		<b>35</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0%</b>

Travel		FY2013 Actuals				Difference Between Recommend and As Passed	Percent Change Recommend and As Passed
Description	Code						
Travel-Inst-Auto Mileage-Emp	518000	6	0	0	0	0	0.0%
Travel-Inst-Meals-Emp	518020	74	0	0	0	0	0.0%
Travel-Inst-Incidentals-Emp	518040	0	0	0	0	0	0.0%

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 Run Date: 12/19/2013  
 Run Time: 03:06 PM

**State of Vermont**  
**FY2015 Governor's Recommended Budget: Detail Report**

Organization: 2100002000 - Vermont court diversion

Travel		FY2013 Actuals				Difference Between Recommend and As Passed		Percent Change Recommend and As Passed
Description	Code							
Travel-Inst-Meals-Nonemp	518320	1,050	0	0	0	0	0.0%	
Travel-Inst-Lodging-Nonemp	518330	11	0	0	0	0	0.0%	
Travel-Outst-Other Trans-Emp	518510	(463)	0	0	0	0	0.0%	
Travel-Outst-Meals-Emp	518520	0	0	0	0	0	0.0%	
Travel-Outst-Lodging-Emp	518530	(395)	0	0	0	0	0.0%	
<b>Total: Travel</b>		<b>283</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0%</b>	
<b>Total: 2. OPERATING</b>		<b>318</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0.0%</b>	

**Budget Object Group: 3. GRANTS**

Grants Rollup		FY2013 Actuals		FY2014 Original As Passed Budget	FY2014 Governor's BAA Recommended Budget	FY2015 Governor's Recommended Budget	Difference Between FY2015 Governor's Recommend and FY2014 As Passed	Percent Change FY2015 Governor's Recommend and FY2014 As Passed
Description	Code							
Other Grants	550500	1,776,474	1,916,483	1,916,483	1,916,483	1,916,483	0	0.0%
<b>Total: Grants Rollup</b>		<b>1,776,474</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>0</b>	<b>0.0%</b>
<b>Total: 3. GRANTS</b>		<b>1,776,474</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>0</b>	<b>0.0%</b>
<b>Total Expenses:</b>		<b>1,791,878</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>0</b>	<b>0.0%</b>

Report ID: VTPB-07  
 Run Date: 12/19/2013  
 Run Time: 03:06 PM

**State of Vermont**  
**FY2015 Governor's Recommended Budget: Detail Report**

Fund Name	Fund Code	FY2013 Actuals	FY2014 Original As Passed Budget	FY2014 Governor's BAA Recommended Budget	FY2015 Governor's Recommended Budget	Difference Between FY2015 Governor's Recommend and FY2014 As Passed	Percent Change FY2015 Governor's Recommend and FY2014 As Passed
General Fund	10000	1,155,018	1,396,486	1,396,486	1,396,486	0	0.0%
AG-Court Diversion	21639	636,860	519,997	519,997	519,997	0	0.0%
<b>Funds Total:</b>		<b>1,791,878</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>0</b>	<b>0.0%</b>
Position Count							
FTE Total							

<b>Report ID:</b>	<b>CGI infoAdvantage</b>
<b>Run Date:</b> 1/10/14	<b>State of Vermont</b>
<b>Run Time:</b> 1:22:05 PM	<b>Performance Measure Detail</b>

**Appropriation: 2100002000 Vermont court diversion**

**Objective:** To hold low-level offenders diverted from tradition court proceedings accountable for the harm caused to others and themselves in order to reduce recidivism.

Measures	Unit	FY 13 Targets	FY 13 Actuals	FY 14 Targets	FY 14 Estimate	FY 15 Targets
successful completion rate of Court Diversion cases (criminal and family division)	% completed cases	80	80	0	80	82
Successful completion rate of Youth Substance Abuse Safety Program cases	% completed cases	75	81	0	81	83
% of victims receiving full amount of restitution after Diversion case has closed	% restitution paid	95	98	0	98	99

Program Budget:	FY2013 Actuals	FY2014 Original As Passed Budget	FY2014 Governor's BAA Recommended Budget	FY2015 Governor's Recommended Budget
PE Personal Services	15,086	0	0	
Operating Expenses	318	0	0	
GF Grants	1,776,474	1,916,483	1,916,483	1,916,483
<b>Total Appropriation</b>	<b>1,791,878</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>1,916,483</b>
PR Other Costs - Self-reported by departments:	0	0	0	8,450
<b>Total Program Cost:</b>	<b>1,791,878</b>	<b>1,916,483</b>	<b>1,916,483</b>	<b>1,924,933</b>

Report ID: VTPB-28 GRANTS\_INVENTOR'

**State of Vermont**  
**FY2015 Governor's Recommended Budget**  
**Grants Out Inventory Report**



**Department: 2100002000 - Vermont court diversion**

Budget Request Code	Fund	Justification	Est Amount
3360	10000	Addison County Court Diversion & Community Justice Projects, Inc.	\$88,506
3360	10000	Center for Restorative Justice - Bennington	\$99,327
3360	10000	Chittenden County Court Diversion	\$187,377
3360	10000	Franklin County Court Diversion Program	\$91,976
3360	10000	Grand Isle Court Diversion Program	\$14,259
3360	10000	Lamoille County Court Diversion Program	\$94,843
3360	10000	Northeast Kingdom Community Action - Orleans Cty	\$82,464
3360	10000	Office of the Attorney General - Director/Support Staff Salary	\$109,677
3360	10000	Orange County Court Diversion Program	\$78,097
3360	10000	Rutland County Court Diversion & Restorative Justice Center	\$122,321
3360	10000	St. Johnsbury Area Youth Service Bureau - Caledonia Cty	\$83,169
3360	10000	St. Johnsbury Area Youth Service Bureau - Essex Cty	\$12,845
3360	10000	Valley Court Diversion Program - Windsor Cty	\$103,546
3360	10000	Vermont Assoc of Court Diversion Programs	\$3,800
3360	10000	Washington County Court Diversion Program	\$120,145
3360	10000	Youth Services, Inc. - Windham Cty	\$104,134
3360	21639	County Court Diversion Programs (14)	\$519,997

Report ID: VTPB-28 GRANTS\_INVENTOR

**State of Vermont**  
**FY2015 Governor's Recommended Budget**  
**Grants Out Inventory Report**



Budget Request Code	Fund	Justification	Est Amount
		Total	\$1,916,483